

ORDINANCE NO. 08-01

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 29. HIALEAH HEIGHTS, OF THE CODE OF ORDINANCES AND IN PARTICULAR, ADDING A NEW SECTION, HIALEAH CODE § 98-1610 ENTITLED "REDEVELOPMENT OF LANDFILL SITES" TO PROVIDE FOR MAXIMUM LAND ELEVATIONS FOR REDEVELOPED LANDFILL SITES, INCLUDING PERCENTAGES FOR MAXIMUM ELEVATIONS FOR SITES OR PHASED DEVELOPMENT EXCEEDING 20 ACRES; SLOPE RESTRICTIONS; APPROVAL OF LAND ELEVATION PLAN PRIOR TO ISSUANCE OF BUILDING PERMIT; AND MISCELLANEOUS REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of November 28, 2007 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific purpose and intent of this ordinance is to provide to regulations, including maximum land elevations and slope restrictions, relating to the redevelopment of property in Hialeah Heights that were used or being used as landfill sites.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, Division 29. Hialeah Heights, of the Code of Ordinances of the City of

Hialeah, Florida is hereby amended, by adding a new section, Hialeah Code § 98-1610 entitled "Redevelopment of landfill sites," to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 29. HIALEAH HEIGHTS

* * *

Sec. 98-1610. Redevelopment of landfill sites.

On properties under a closure plan approved by county department of environmental resources (DERM), on properties that have finalized such closure plan or on properties that will be required to enter into a closure plan with DERM prior to redevelopment, the city will allow the elevation and slope of the land that was formerly used as a landfill for which buildings and structures shall be constructed to be limited as follows:

(a) The elevation of land less than or equal to 20 acres shall not exceed 14 feet from the crown of the road that is either adjacent to, abutting, or in the closest proximity to, the land. The measurement includes the additional layer of clean fill that is required to be placed on top of property that was used as a landfill. If there is a corner lot or property where a property abuts two right-of-ways where the crown of the road of each right-of-way is measured at different heights, the crown of the abutting right-of-way that is higher shall apply for the entire property.

(b) The elevation of land that is greater than 20 acres developed as one site or as phased development titled

under the same property owner or affiliated company shall conform to the following topography:

Maximum percentage of total gross acreage Maximum elevation

<u>20%</u>	<u>12 feet*</u>
<u>25%</u>	<u>17 feet*</u>
<u>30%</u>	<u>22 feet*</u>
<u>25%</u>	<u>25 feet*</u>

* As measured from the crown of the road that is either adjacent to, abutting, or in the closest proximity to, the land. The measurement includes the additional layer of clean fill that is required to be placed on top of the property that was used as a landfill. If there is a corner lot or property where a property abuts two right-of-ways where the crown of the road of each right-of-way is measured at different heights, the crown of the abutting right-of-way that is higher shall apply for the entire property.

(c) Slope. The slope of the property shall be no greater than the angle of 10 degrees.

For land greater than 20 acres developed as one site or as phased development titled under the same property owner or affiliated company, the slope of the land may exceed an angle greater than 10 degrees but no greater than 20 degrees only to allow adjustments for stormwater retention and landscape berms and swales; provided, however, that the slope of all vehicular rights-of-way and pedestrian pathways not exceed the angle of 10 degrees at all locations. In addition, ancillary retaining walls may be constructed to accommodate the difference between maximum elevations if such walls include stairs or a ramp and otherwise are integrated into the surrounding buildings or structures.

(d) Properties fronting the western edge of NW 97 Avenue (West 36 Avenue). The first 1,320 feet adjacent to the property line shall have the lowest land elevation of the property. If the first 1,320 feet adjacent to the property line contains an upwards slope, the slope should be gradual and subtle; without creating hills and valleys, except to provide a landscape berm or enclosure of a production water well that may be located at or near the right-of-way.

(e) The land elevations on the property shall be designed to promote pedestrian access and the connectivity of the street network.

(f) Prior to the issuance of the building permit, the applicant shall obtain city approval of a land elevation plan than complies with the requirements of this section.

*

*

*

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

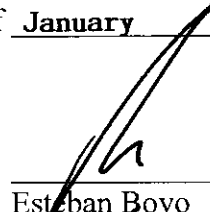
Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 8th day of January, 2008.
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Esteban Bovo
Council President

Attest:

Approved on this 9 day of January, 2008.



Rafael E. Granada, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.